



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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DIRECTOR

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Virginia Burns
Howard Prunty
Co-Chairpersons
Political Action for
Candidate Election
c/o NASW
14 Beacon Street
Room 409
Boston, Massachusetts 02108

Dear Ms. Burns and Mr. Prunty:

This letter is in response to your request for an advisory opinion concerning the relationship between a non-profit organization and its political committee under M.G.L. c.55.

You have stated that Massachusetts Political Action for Candidate Election ("PACE") is a political committee associated with the National Organization of Social Workers, Massachusetts chapter, a 501(c)(6) organization (the "Organization").

You have posed the following series of questions concerning these entities:

1. Must PACE reimburse the Organization for staff time the Organization may give, for office space (if any), for clerical services (if any), for costs of mailing to the Board members of PACE (if any), as well as for similar costs? Are there other costs for which PACE must reimburse the Organization? If so, how is the amount of the reimbursement determined?

Section 6 of M.G.L. c.55 states that "any . . . political committee, duly organized, may receive, pay and expend money or other things of value for . . . the principle, for which the committee was organized so long as such expenditure is not primarily for . . . any . . . person's personal use . . ." The regulations promulgated pursuant to M.G.L. c.55 further delineate the types of expenditures which a political committee may make. Specifically included in this list are postage (970 C.M.R. 2.05(2)(a)) and office space (970 C.M.R. 2.05(2)(h)).

It is the opinion of this office, therefore, that PACE may reimburse the Organization for clerical, mailing and similar costs.

However, you have inquired as to whether PACE must reimburse the Organization for such costs. (In analyzing this issue, we have assumed that the Organization, as a 501(c)(6) entity, is a non-profit corporation. If the Organization is a for-profit organization or receives corporate monies the following advice would not be valid.)

Section 1 of M.G.L. c.55 defines a contribution as any "gift, subscription, loan, advance, deposit of money or thing of value" The regulations further provide that "the use of any thing of value by a political committee, other than those things . . . for which the political committee has paid the fair market value for the use thereof, shall constitute a contribution in-kind to that political committee by the person or entity which has ownership of the thing of value." (970 C.M.R. 2.07(3)).

As a non-profit corporation, the Organization may make in-kind contributions to political committees, subject to certain limitations (see the enclosed Interpretative Bulletin 105 "The Applicability of the Campaign Finance Law to Organizations Other Than Political Committees").

To the extent that PACE receives a benefit from the Organization, such benefit shall be construed as a contribution reportable by PACE, unless PACE reimburses the Organization. The value of such benefit shall be determined based on the actual cost of such benefit. If the actual cost cannot be determined (for example, the use of office resources such as computers and copiers) the fair market value of the benefit may be used.

2. When the Organization notifies its members about an endorsement which PACE has made, who pays for the printing and mailing costs?

If the Organization notifies its members about an endorsement PACE has made through a special mailing or a newsletter devoted solely to the topic of the endorsement, a benefit would be conferred on PACE. Such benefit would be subject to the criteria set forth in the answer to Question 1 above. If, however, the Organization were to print the endorsement in a periodic newsletter or similar regular mailing, the Organization may pay for the printing and mailing costs. See Opinion of the Attorney General, November 6, 1980, p. 123.

3. May PACE sponsor a fundraiser for a candidate it has endorsed? If yes, may PACE invite members of the Organization to the fundraiser? If yes, who pays for the printing and mailing costs of such invitations?

Section 6 of M.G.L. c.55 states, in part: "A political committee not organized on behalf of an individual candidate . . . may contribute to the campaign fund of a candidate; provided, however, that the aggregate of all such contributions for the benefit of any one candidate and the non-elected political committee organized on such candidate's behalf shall not exceed in any one calendar year the sum of one thousand dollars."

It is the opinion of this office, therefore, that PACE may only sponsor an event (other than a fundraiser, which is discussed below) for a candidate it has endorsed to the extent that the costs of such event as well as any monies PACE may have separately contributed to such candidate do not exceed the \$1,000 limitation. All costs associated with the use of the Organization's mailing list, as well as the printing and mailing of the invitations must be included in computing the costs of the event which will be attributed as a contribution to the candidate. Such costs may be borne by PACE or the Organization determined by the criteria set forth in the answer to Question 1 above.

Section 5 of M.G.L. c.55 states, in pertinent part, that "[t]he statement of a political committee organized on behalf of a candidate shall also include the written consent of said candidate. No candidate shall give his consent to more than one such committee."

This office would consider a political committee which sponsors a fundraiser for a particular candidate to be functioning as a political committee organized for the benefit of that candidate and therefore operating in violation of that portion of section 5 of M.G.L. c.55 cited above.

In addition, any committee which sponsors a fundraising event for any purpose is required to deposit such funds in its account and to disclose such activity on its campaign finance reports. A multi-candidate committee which sponsors a fundraiser for a candidate would therefore be required to deposit any proceeds from such an event into its account which then would be subject to the \$1,000 contribution limitation contained in section 6 of M.G.L. c.55

For these reasons, it is the belief of this office that a multi-candidate committee could not circumvent the \$1,000 contribution limitation from political committees to candidates by sponsoring a fundraiser for a particular candidate.

4. If PACE offers an endorsed candidate the names of the Organization's members who live in the candidate's district, must PACE charge the candidate for these names? What about names of members who live outside the district? If there is

a charge for each name, what is the current rate per name?

A mailing list is a thing of value, and if contributed to a political committee or candidate, must be treated as a contribution. If the Organization, therefore, gives its mailing list to PACE, PACE must treat such list according to the criteria set forth in the answer to Question 1 above. If PACE, in turn, were to give such mailing list to a candidate, such contribution would be subject to the limitations on contributions by political committees to candidates, whether or not such list contained names of members within the candidate's district or outside of it.

A determination of the value of the mailing list must be based on its fair market value. We suggest that you obtain current information about the value of mailing lists generally from several firms which are in the business of supplying such lists and use this information in setting a value to the Organization's mailing list.

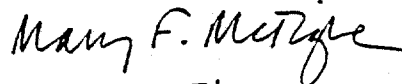
5. Are there any guidelines for the composition of the Board of Directors of PACE?

This Office does not issue guidelines concerning the composition of a political committee's Board of Directors. However, we would alert you to the prohibitions in section 13 of M.G.L. c.55 against public employees, directly or indirectly, soliciting or receiving any money or other thing of value for any political purpose. An example of indirect solicitation would be the inclusion of a public employees' name on the organization's letterhead used for fundraising purposes.

In addition, the name, residential address and position of the principal officers of a political committee must be included with the committee's statement of organization. If any of this information changes, a statement with the correct information must be filed within ten days of the change. See section 5 of M.G.L. c.55.

This opinion is based solely on the representations made in your letter and solely in the context of M.G.L. c.55. If you have additional questions please do not hesitate to contact this office.

Very truly yours,



Mary F. McTigue
Director

MFM/wp
enclosure